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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,982	02/27/2002	Troy Raymond Pesola	2001-093-NSC	6861

7590 06/02/2004

Wayne P. Bailey  
Storage Technology Corporation  
One Storage Tek Drive  
Louisville, CO 80028-4309

EXAMINER

KINDRED, ALFORD W

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 06/02/2004

2

Please find below and/or attached an Office communication concerning this application or proceeding.

pre

# Office Action Summary

Application No.

10/083,982

Applicant(s)

PESOLA ET AL.

Examiner

Alford W. Kindred

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,23-40,57-74,and 91-102 is/are rejected.
- 7) ☒ Claim(s) 7-22,41-56 and 75-90 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to communication: Application, filed on 02/27/2002.

#### ***Allowable Subject Matter***

2. Claims 7-22, 41-56, 75-90, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 23-40, 57-74, and 91-102 are rejected under 35 U.S.C. 102(e) as being anticipated by Black et al., US# 6,671,699 B1.

As per claims 1-2, Black et al. teaches “providing a virtualization system interposed between a host computer system and a plurality of physical devices, wherein said host computer systems capable of accessing virtual interfaces and is incapable of directly accessing any of said plurality of physical devices” (see col. 7, lines 15-32) “establishing a database within said virtualization system for storing information; and

storing, within said database, information about transactions processed by said virtualization system . . .” (see col. 18, lines 13-30 and col. 19, lines 15-28).

As per claim 3, Black et al. teaches “analyze performance of said plurality of physical devices” (see col. 30, lines 10-29).

As per claim 4, Black et al. teaches “detecting an error in one of said plurality of physical devices; and storing information about said error in said database” (see col. 33, lines 32-54).

As per claims 5-6, Black et al. teaches “information about a usage of each one of said plurality of storage devices” (see col. 50, lines 2-16).

As per claim 23, Black et al. teaches “information about errors in said plurality of physical devices occurring during said transactions” (see col. 33, lines 32-66).

As per claims 24-28, Black et al. teaches “said virtual interfaces are virtual storage devices . . . virtual libraries . . . virtual volume . . . virtual drives . . .” (see col. 7, lines 15-38).

As per claim 29, Black et al. teaches “virtual tape drives” (see col. 7, lines 15-24).

As per claim 30-31, Black et al. teaches “a combination of different virtual interfaces . . .” (see col. 17, lines 37-51).

As per claims 32-34, Black et al. teaches “physical storage devices . . .” (see col. 9, lines 29-52).

As per claims 35-40 and 57-68, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 1-7 and 23-34 and are similarly rejected.

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As per claims 69-74 and 91-102, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 1-7 and 23-34 and are similarly rejected.

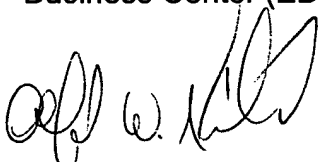
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US# 6,400,996 B1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alford W. Kindred whose telephone number is 703-305-3802. The examiner can normally be reached on Mon-Fri 9:00 am- 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alford W. Kindred  
Patent Examiner  
Tech Ctr. 2100